

Docket No.: 242758US



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
KAZUHITO NARITA ET AL : EXAMINER: LE, DUNG ANH  
SERIAL NO: 10/670,249 : DATE ALLOWED: December 23, 2004  
FILED: September 26, 2003 : GROUP ART UNIT: 2818  
FOR: METHOD OF MANUFACTURING :  
SEMICONDUCTOR DEVICE  
USING STI TECHNIQUE

PETITION UNDER 37 C.F.R. §1.181(a)(3)

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicants respectfully petition in accordance with 37 C.F.R. §1.181(a)(3) to obtain formal consideration by the examiner of the Information Disclosure Statement filed October 27, 2003. Attached is a copy of this IDS, a copy of the PTO 1449 form filed with the IDS, and a copy of the PEOPLE'S REPUBLIC OF CHINA Office Action (with English translation) submitted with the IDS, as well as a copy of a date stamped filing receipt evidencing the filing on October 27, 2003.

37 C.F.R. §1.181(a)(3) allows petition to invoke the supervisory authority of the Commissioner in appropriate circumstances. Accordingly, it is respectfully submitted that this

Petition under 37 C.F.R. §1.181 be granted and that the Examiner consider the IDS filed  
October 27, 2003 and the references cited therein.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Registration No. 28,870  
Attorneys of Record

Customer Number  
22850

Fax #: (703) 413-2220

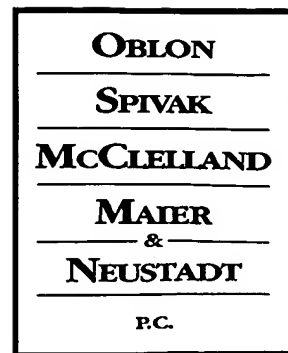
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Docket No.: 242758US2S DIV

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/670,249  
Applicants: Kazuhito NARITA, et al.  
Filing Date: September 26, 2003  
For: METHOD OF MANUFACTURING  
SEMICONDUCTOR DEVICE USING STI  
TECHNIQUE  
Group Art Unit: 2818  
Examiner: LE, DUNG ANH

SIR:

Attached hereto for filing are the following papers:

**PETITION UNDER 37 C.F.R. § 1.181(a)(3)**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
Eckhard H. Kuesters

Registration No. 28,870

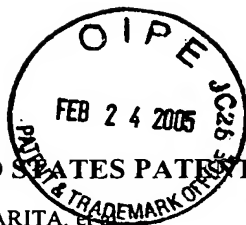
Joseph Scafetta, Jr.  
Registration No. 26,803

Customer Number

**22850**

(703) 413-3000 (phone)  
(703) 413-2220 (fax)

Docket No. 242758US2SDIV/shb



COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Kazuhito NARITA, et al.

SERIAL NO: 10/670,249

GAU:

FILED: September 26, 2003

EXAMINER:

FOR: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING THE SAME

INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.97

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicant(s) wish to disclose the following information.

REFERENCES

- ☒ The applicant(s) wish to make of record the references cited in the attached People's Republic of China Office Action listed on the attached form PTO-1449. Copies of the listed references are attached, where required, as are either statements of relevancy or any readily available English translations of pertinent portions of any non-English language references.

- ☐ A check or credit card payment form is attached in the amount required under 37 CFR §1.17(p).

RELATED CASES

- ☐ Attached is a list of applicant's pending application(s) or issued patent(s) which may be related to the present application. A copy of the patent(s), together with a copy of the claims and drawings of the pending application(s) is attached along with PTO 1449.

- ☐ A check or credit card payment form is attached in the amount required under 37 CFR §1.17(p).

CERTIFICATION

- ☐ Each item of information contained in this information disclosure statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned, having made reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this statement.

DEPOSIT ACCOUNT

- ☒ Please charge any additional fees for the papers being filed herewith and for which no check or credit card payment is enclosed herewith, or credit any overpayment to deposit account number 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

  
Marvin J. Spivak

Registration No. 24,913

Joseph Scarenna, Jr.  
Registration No. 26,803

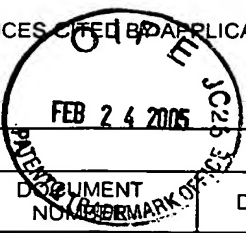
Customer Number

22850

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(OSMMN 05/03)

COPY

SHEET 1 OF 1

Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY DOCKET NO. 242758US2SDIV		SERIAL NO. 10/670,249	
LIST OF REFERENCES CITED BY APPLICANT  <div style="text-align: center;">  </div>				APPLICANT Kazuhito NARITA, et al.			
				FILING DATE September 26, 2003		GROUP	
<b>U.S. PATENT DOCUMENTS</b>							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA	5,950,090	09/07/1999	C. CHEN, et al.			
	AB	4,389,294	06/21/1983	N. G. ANANTHA, et al.			
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						
<b>FOREIGN PATENT DOCUMENTS</b>							
		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION		
					YES	NO	
	AO	3-71781	11/14/1991	JAPAN (corr. US 4,389,294)		X	
	AP						
	AQ						
	AR						
	AS						
	AT						
	AU						
	AV						
<b>OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)</b>							
	AW						
	AX						
	AY						
	AZ					<input type="checkbox"/> Additional References sheet(s) attached	
Examiner					Date Considered		

\*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



COPY

9/8/03

OSMM&N File No. 242758US2SDIV

Dept.: PP

By: MJS/shb

Serial No. 10/670,249

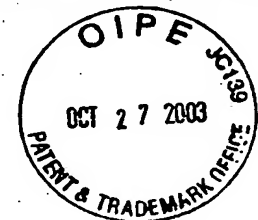
In the matter of the Application of: Kazuhito NARITA, et al.

For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING THE SAME

Due Date: 12/26/03

The following has been received in the U.S. Patent Office on the date stamped hereon:

- Dep. Acct. Order Form
- Information Disclosure Statement
- Cited References (1)
- PEOPLE'S REPUBLIC OF CHINA Office Action (with English translation)



FILED BY IDS  
0-27-03



COPY

THE PATENT OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Address: 6 Xi Tu Cheng Lu, Haidian, Beijing

Post Code: 100088

Applicant:	KABUSHIKI KAISHA TOSHIBA	Date of Notification: Date: <u>18</u> Month: <u>07</u> Year: <u>2003</u>
Attorney:	WANG YONGGANG	
Application No.:	01125493.9	
Title of the Invention:	半导体装置及びその製造方法	

Notification of the First Office Action

1. ☒ The applicant requested examination as to substance and examination has been carried out on the above-identified patent application for invention under Article 35(1) of the Patent Law of the People's Republic of China(hereinafter referred to as "the Patent Law").  
☐ The Chinese Patent Office has decided to examine the application on its own initiative under Article 35(2) of the Patent Law.
2. ☒ The applicant claimed priority/priorities based on the application(s):  
filed in JP on June 30, 2000, filed in \_\_\_\_\_ on \_\_\_\_\_,  
filed in \_\_\_\_\_ on \_\_\_\_\_, filed in \_\_\_\_\_ on \_\_\_\_\_,  
filed in \_\_\_\_\_ on \_\_\_\_\_, filed in \_\_\_\_\_ on \_\_\_\_\_,  
☒ The applicant has provided the priority documents certified by the Patent Office where the priority application(s) was/were filed.  
☐ The applicant has not provided the priority documents certified by the Patent Office where the priority application(s) was/were filed and therefore the priority claim(s) is/are deemed not to have been made under Article 30 of the Patent Law.  
☐ The application is a PCT continuation.
3. ☐ The applicant submitted amendments to the application on \_\_\_\_\_ and on \_\_\_\_\_, wherein the amended \_\_\_\_\_ submitted on \_\_\_\_\_ and the amended \_\_\_\_\_ submitted on \_\_\_\_\_ are not acceptable, because said amendments do not comply with ☐Article 33 of the Patent Law.  
☐Rule 51 of the Implementing Regulations of the Patent Law.  
The specific reasons why the amendments are not allowable are set forth in the text portion of this Notification.
4. ☒ Examination as to substance was directed to the initial application documents as filed.  
☐ Examination as to substance was directed to the documents as specified below:  
pages \_\_\_\_\_ of the description, claims \_\_\_\_\_ and pages \_\_\_\_\_ of the drawings submitted on \_\_\_\_\_,  
pages \_\_\_\_\_ of the description, claims \_\_\_\_\_ and pages \_\_\_\_\_ of the drawings submitted on \_\_\_\_\_,  
pages \_\_\_\_\_ of the description, claims \_\_\_\_\_ and pages \_\_\_\_\_ of the drawings submitted on \_\_\_\_\_,  
the abstract submitted on \_\_\_\_\_, and the figure for the abstract submitted on \_\_\_\_\_.
5. ☐ This Notification is issued without search reports.  
☒ This Notification is issued with consideration of the search results.  
☒ Below is/are the reference document(s) cited in this Office Action(the reference number(s) will be used throughout the examination procedure):

No.	Number(s) or Title(s) of Reference(s)	Date of Publication (or the filing date of conflicting application)
1	US5950090A	Date: <u>7</u> Month: <u>9</u> Year: <u>1999</u>
2	US4389294A	Date: <u>21</u> Month: <u>6</u> Year: <u>1983</u>
3		Date: <u>  </u> Month: <u>  </u> Year: <u>  </u>
4		Date: <u>  </u> Month: <u>  </u> Year: <u>  </u>
5		Date: <u>  </u> Month: <u>  </u> Year: <u>  </u>

6. Conclusions of the Action:

☒ On the Specification:

- ☐ The subject matter contained in the application is not patentable under Article 5 of the Patent Law.  
☐ The description does not comply with Article 26 paragraph 3 of the Patent Law.  
☒ The draft of the description does not comply with Rule 18 of the Implementing Regulations.

☒ On the Claims:

- ☐ Claim(s)        is/are not patentable under Article 25 of the Patent Law.  
☐ Claim(s)        does/do not comply with the definition of inventions prescribed by Rule 2 paragraph 1 of the Implementing Regulations.  
☐ Claim(s)        does/do not possess the novelty as required by Article 22 paragraph 2 of the Patent Law.  
☒ Claim(s) 1 does/do not possess the inventiveness as required by Article 22 paragraph 3 of the Patent Law.  
☐ Claim(s)        does/do not possess the practical applicability as required by Article 22 paragraph 4 of the Patent Law.  
☒ Claim(s) 3,5,8 does/do not comply with Article 26 paragraph 4 of the Patent Law.  
☐ Claim(s)        does/do not comply with Article 31 paragraph 1 of the Patent Law.  
☐ Claim(s)        does/do not comply with the provisions of Rules 20-23 of the Implementing Regulations.  
☐ Claim(s)        does/do not comply with Article 9 of the Patent Law.  
☐ Claim(s)        does/do not comply with the provisions of Rule 12 paragraph 1 of the Implementing Regulations.

7. In view of the conclusions set forth above, the Examiner is of the opinion that:

- ☐ The applicant should make amendments as directed in the text portion of the Notification.  
☒ The applicant should expound in the response reasons why the application is patentable and make amendments to the application where there are deficiencies as pointed out in the text portion of the Notification, otherwise, the application will not be allowed.  
☐ The application contains no allowable invention, and therefore, if the applicant fails to submit sufficient reasons to prove that the application does have merits, it will be rejected.

☐

8. The followings should be taken into consideration by the applicant in making the response:

- (1) Under Article 37 of the Patent Law, the applicant should respond to the office action within 4 months counting from the date of receipt of the Notification. If, without any justified reason, the time limit is not met, the application shall be deemed to have been withdrawn.  
(2) Any amendments to the application should be in conformity with the provisions of Article 33 of the Patent Law. Substitution pages should be in duplicate and the format of the substitution should be in conformity with the relevant provision contained in "The Examination Guidelines".  
(3) The response to the Notification and/or revision of the application should be mailed to or handed over to the "Reception Division" of the Patent Office, and documents not mailed or handed over to the Reception Divisions have no legal effect.  
(4) Without an appointment, the applicant and/or his agent shall not interview with the Examiner in the Patent Office.

9. This Notification contains a text portion of 2 pages and the following attachments:

- ☒ 2 cited reference(s), totaling 20 pages. ☐

Examination Dept. 9 Examiner: ZHAO Yu Seal of the Examination Department





### Text of the First Office Action

The examiner's comments are as follows:

Reference 1 discloses a method for fabricating a semiconductor transistor device, and in particular discloses the following technical features (col. 4, line 50 through col. 8, line 12, and Figs. 2A-2G): a semiconductor substrate (200); a transistor comprising a gate insulator film (210b) on the semiconductor substrate and a gate electrode (226) on the gate insulator film; and an element separation insulator film (224) comprising a first section (220) stretching from the surface of the substrate to the inside of the substrate and a second section (222a) which projects from the substrate. The technical feature in the last paragraph of claim 1 is not disclosed in reference 1. Reference 2 discloses a method for fabricating a semiconductor device that avoids residue at a vertical portion, in which (see col. 3, line 17 through col. 7, line 27, and Figs. 1-5) regions 34A and 34B on the substrate also have a section with a reversed taper shape, which has the same function of avoiding failure due to etching residue as that of the present invention. It is obvious to those skilled in the art to obtain the technical solution of claim 1 by combining reference 2 on the basis of reference 1 and arranging the second section of the element separation insulator film to contact the side of the gate electrode. Since claim 1 neither has prominent substantive features nor represents a notable progress with respect to references 1 and 2, it does not comply with Article 22, paragraph 3 of the Chinese Patent Law (CPL) for lack of the inventiveness.


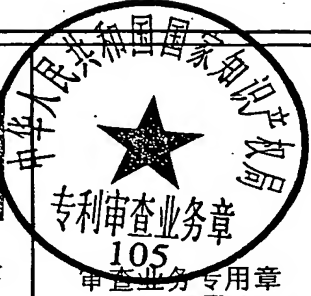
The present application also has the following defects:

1. (This paragraph involves a typo occurred in claims 3 and 5, which we can take care of at our end).
2. The additional technical feature of claim 8 has never recorded in the specification, therefore, claim 8 does not comply with Article 26, paragraph 4 of the CPL.
3. (Subtitles need incorporating into the specification, which we can take care of at our end.)
4. (English abbreviations should be explained with Chinese translations when they are cited for the first time, which we can take care of at our end.)

The technical solution portion of the specification should accordingly be amended while the applicant amends the independent claims.

To sum up, the present application cannot be patented based on the current text. The applicant should make a response to this Action and make necessary amendments to the document in view of the comments set forth in this Office Action to overcome the existing defects; otherwise, the application shall be finally rejected under Article 38 of the CPL. The applicant is reminded of the provisions of Article 33 of the Chinese Patent Law that amendments shall not go beyond the scope of the disclosure contained in the initial description and claims.

# 中华人民共和国国家知识产权局

邮政编码: 100031  北京市复兴门内大街 158 号远洋大厦 F10 层 中国国际贸易促进委员会专利商标事务所 王 永 刚		 审查员签章	
申请号	01125493.9	部门及通知书类型	9 - C
申请人	株式会社东芝		
发明名称	半导体器件及其制造方法		

## 第一次审查意见通知书

1. ☒ 依申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 审查员对上述发明专利申请进行实质审查。

☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。

2. ☒ 申请人要求以在:

日本 专利局的申请日 2000 年 6 月 30 日为优先权日,  
 专利局的申请日 年 月 日为优先权日,  
 专利局的申请日 年 月 日为优先权日,  
 专利局的申请日 年 月 日为优先权日,  
 专利局的申请日 年 月 日为优先权日.

E-011463

☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。

☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未提出优先权要求。

3. ☐ 申请人于 年 月 日和 年 月 日提交了修改文件。

经审查, 其中: 年 月 日提交的 不能被接受;

年 月 日提交的 不能被接受;

因为上述修改 ☐ 不符合专利法第 33 条的规定。 ☐ 不符合实施细则第 51 条的规定。

修改不能被接受的具体理由见通知书正文部分。

4. ☒ 审查是针对原始申请文件进行的。

☐ 审查是针对下述申请文件的:

申请日提交的原始申请文件的权利要求第 项、说明书第 页、附图第 页;  
 年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
 年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
 年 月 日提交的权利要求第 项、说明书第 页、附图第 页;  
 年 月 日提交的说明书摘要, 年 月 日提交的摘要附图。

5. ☐ 本通知书是在未进行检索的情况下作出的。

☒ 本通知书是在进行了检索的情况下作出的。

☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期
1	US5950090A	1999 年 9 月 7 日
2	US4389294A	1983 年 6 月 21 日
3		年 月 日
4		年 月 日

6. 审查的结论性意见:

☒关于说明书:

☐申请的内容属于专利法第 5 条规定的不授予专利权的范围。

☐说明书不符合专利法第 26 条第 3 款的规定。

☒说明书的撰写不符合实施细则第 18 条的规定。

☐

☒关于权利要求书:

☐权利要求\_\_\_\_\_不具备专利法第 22 条第 2 款规定的新颖性。

☒权利要求 1 不具备专利法第 22 条第 3 款规定的创造性。

☐权利要求\_\_\_\_\_不具备专利法第 22 条第 4 款规定的实用性。

☐权利要求\_\_\_\_\_属于专利法第 25 条规定的不授予专利权的范围。

☒权利要求 3、5、8 不符合专利法第 26 条第 4 款的规定。

☐权利要求\_\_\_\_\_不符合专利法第 31 条第 1 款的规定。

☐权利要求\_\_\_\_\_不符合专利法实施细则第 2 条第 1 款关于发明的定义。

☐权利要求\_\_\_\_\_不符合专利法实施细则第 13 条第 1 款的规定。

☐权利要求\_\_\_\_\_不符合专利法实施细则第 20 条至第 23 条的规定。

☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

☐申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。

☒申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。

☐专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

☐

8. 申请人应注意下述事项:

(1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 2 页, 并附有下列附件:

☒引用的对比文件的复印件共 2 份 20 页。

☐

审查 9 部

审查员 赵煜

审查部门业务专用章

(未加盖审查业务专用章的通知书不具备法律效力)

## 第一次审查意见通知书正文

审查意见如下：

对比文件 1 公开了一种半导体晶体管器件的制造方法，它具体披露了下述技术特征（说明书第 4 栏 50 行至第 8 栏 12 行，附图 2A-2G）：所述器件具备半导体衬底（200）；在半导体衬底上的具备栅绝缘膜（210b）和在栅绝缘膜上的栅电极（226）的晶体管；具备从衬底表面延伸到衬底内部的第 1 部分（220）和从衬底突出的第 2 部分（222a）的器件隔离绝缘膜（224）。权利要求 1 中没有被对比文件 1 所披露的技术特征是：“上述第 2 部分的侧面至少部分地与上述栅电极的侧面直接接触，上述栅电极的剖面形状为倒锥形。”对比文件 2 公开了一种避免在垂直处产生残渣的半导体器件的制造方法，其中（说明书第 3 栏 18 行至第 7 栏 27 行，附图 1-5）位于衬底上的 34A、34B 区域的截面也为倒锥形，其目的同样是避免刻蚀残余引起的不良反映。从而本领域技术人员可以从对比文件 2 中得到将上述区别技术特征应用到对比文件 1 中以解决其技术问题的启示。由此可知，在对比文件 1 的基础上结合对比文件 2，并将上述器件隔离绝缘膜的第 2 部分与栅电极的侧面接触设置，得到权利要求 1 的技术方案对于本领域的技术人员来说是显而易见的。因此该权利要求 1 相对于对比文件 1 和 2 而言不具有突出的实质性特点和显著的进步，不符合专利法第二十二条第三款规定的创造性。

此外，本申请还存在下述缺陷：

- 1、权利要求 3、5 的附加技术特征是：“上述第 1 部分的上述栅电极侧的侧面与上述第 2 部分的上述栅电极侧的侧面不连续，并且上述第 2 部分的宽度比上述第 1 部分的宽度要宽。”而说明书中并没有上述记载，根据对说明书的理解，应当是：第 1 部分的器件隔离绝缘膜的侧面与上述第 2 部分的器件隔离绝缘膜的侧面不连续，并且上述第 2 部分的宽度比上述第 1 部分的宽度要宽。因此上述权利要求得不到说明书的支持，不符合专利法第二十六条第四款的规定。
- 2、权利要求 8 的附加技术特征的内容没有记载在说明书中，因此该权利要求不符合专利法第二十六条第四款的规定。

- 3、说明书应按照“技术领域”、“背景技术”、“发明内容”、“附图说明”、“具体实施方式”这五部分的方式和顺序撰写，并且在说明书每一部分前面写明标题，以符合专利法实施细则第十八条第一、二款的规定。
- 4、说明书中第一次使用非中文技术名词时，应当用中文译文加以注释或者使用中文给予说明。而本申请的说明书中第一次使用非中文技术名词时没有给予中文说明，申请人应当对此进行修改，以符合专利法实施细则第十八条第三款的规定。

申请人在对独立权利要求修改的同时，注意对说明书发明内容的技术方案部分做相应的修改。

综上所述，本申请属于专利法实施细则第五十三条第（二）、（三）项的情况，本申请按照目前的文本不能被授予专利权，申请人应该按照上述审查意见在指定的期限内陈述意见或进行修改，克服上述缺陷，否则将根据专利法第三十八条驳回本申请。修改时应满足专利法第三十三条的规定，不得超出原说明书和权利要求书的记载范围。